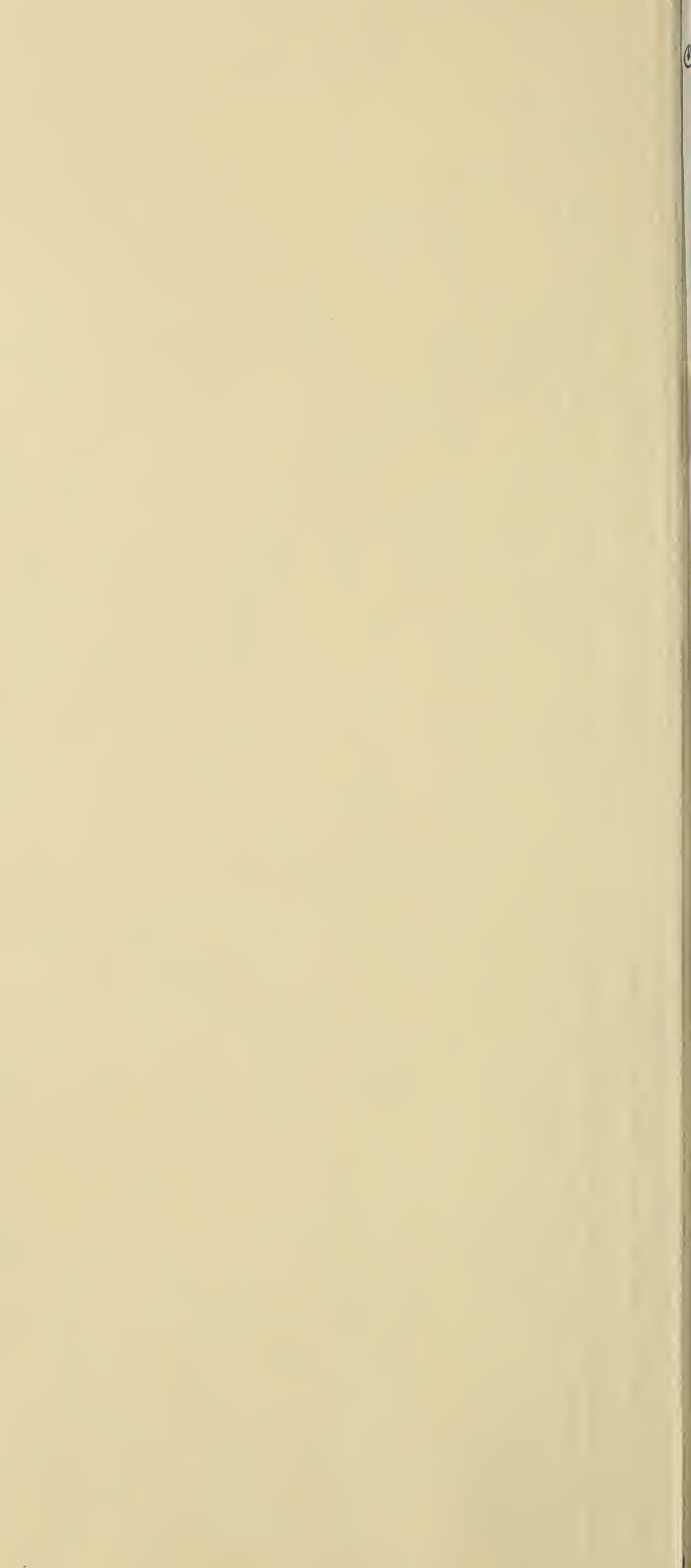


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LAND EXCHANGE

in the National Forest System

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U.S. DEPARTMENT OF AGRICULTURE
FOREST SERVICE, PA-821

Land Exchange in the National Forest System

The Forest Service, U.S. Department of Agriculture, manages 154 National Forests and 19 National Grasslands covering more than 186 million acres in all sections of the country. They comprise one-fifth of the Nation's commercial forest area.

These lands and resources are managed in the public interest under the multiple use principle to continuously produce timber, water, forage, fish, wildlife, and recreation opportunities for our country's ever-growing needs. Timber harvest by private firms is permitted where appropriate, under strict controls.

Within the boundaries of the National Forest System are millions of acres of privately owned land, intricately intermingled with Federal land to form a "crazy-quilt" pattern which makes efficient operation difficult both for the Forest Service and the private owner.

This pamphlet explains what land exchange is, why exchanges are desirable, and how they are accomplished.

What is land exchange and why is it needed?

It is the voluntary exchange of land by mutual agreement between the Forest Service on the one hand, and private owners, States, counties, and other non-Federal agencies, on the other, for the benefit of both parties. It is needed to consolidate ownership patterns in areas of intermingled land-holdings so that all parties can manage their lands more effectively. Frequently, exchange can also make available lands suited to and needed for community expansion and development.

Is land exchange new?

No, exchanges have been made for more than 50 years. Some 5,000 transactions have been completed in which more than 9 million acres have changed hands. In 1966, about 315,000 acres were exchanged in 128 agreements.

Where are exchanges possible?

Congress has provided authority for the exchange of lands in the National Forest System, subject to the following general rules:

- 1. The exchange must be in the public interest.
- 2. The value of the property the United States gives in each exchange cannot exceed the value of the property it receives.

- 3. Lands are exchanged on the basis of their market value, not acre-for-acre.
- 4. The properties given and received must be in the same State.
- 5. Except where special authorization exists, the land offered to the United States must be within the boundary of a National Forest or a National Grassland.

Are private owners required to exchange?

No, it is entirely a voluntary process. Either the landowner or the Forest Service can start negotiations.

How do private owners benefit from exchange?

Compact ownerships that result make possible lower maintenance, supervision, and improvement costs on the private owner's land. More efficient management of their lands and resources is made possible.

Some examples of these benefits are:

- 1. Shorter boundary lines, easier to mark and maintain.
- 2. Fewer trespass problems, claims, and lawsuits.
- 3. Lower costs for road construction and maintenance, due to more compact ownership.
- 4. It is possible to develop lands in ways not otherwise possible or practicable.

How do the Federal Government and the public at large benefit?

In all of the above ways. Also, exchange often makes more land available for public use. Many private owners prefer to exchange tracts with the Forest Service rather than sell such land to the Government (and then have to buy other land outright to replace what they sold). Thus the Forest Service can often acquire vitally needed tracts of land within a National Forest or National Grassland boundary which could not be obtained without this exchange authority.

Additional examples of public benefits that can result from land exchange are:

- 1. Better control of erosion in vital mountain watersheds which supply water to downstream communities.
- 2. Acquisition of critically needed recreation lands on lakes and streams.
- 3. Protection of wilderness environment.
- 4. Isolated timberlands can be made more accessible for scientific forest management.

Will big increases in Federal ownership result?

No, the primary objective is to consolidate ownership in the National Forest System for more efficient management. There is a reasonable balance of acreage transferred between the Forest Service and private owners in the exchange program.

What land does the Forest Service exchange?

Lands available for exchange are: (1) tracts isolated from other National Forest System lands, (2) "checkerboard" land in mile-square sections which date back to the century-old Federal grants to the western railroads, and (3) other lands of intermingled ownership where change in ownership is in the public interest.

Exchange actions are based on the landownership adjustment plans prepared for each Forest Service unit. These plans concern three major categories of lands:

- 1. National Forest System lands which should remain in Federal ownership.
- 2. Private lands lying within National Forest or National Grassland boundaries which would be suitable for management as part of the National Forest System.
- 3. Those National Forest System lands which are designated available to exchange for private lands.

What have some recent land exchanges accomplished?

Throughout the country, a number of mutually satisfactory exchanges have been made with private timber companies. One such exchange involved over 18,000 acres in the Gifford Pinchot National Forest near Mount St. Helens in Washington State. (See map sketches.)

In the exchange depicted on the maps, the Forest Service acquired three times as much stream and river frontage as it gave up, including improved access to the upper Kalama River system, which offers excellent fishing. The Forest Service also received 12-acre Blue Lake, and access to nearby McBride Lake, both at the foot of Mount St. Helens. Campgrounds are being planned on this land, and both parties to the exchange are planning road extensions which will facilitate public hunting of elk and deer. The lumber company's landownership has been consolidated so that logging and management of its holdings can be done much more economically.

The lumber company and the Forest Service have put management programs into effect for timber, water supply, wildlife, and recreation with greater efficiency. The exchange has greatly reduced the needed mileage of new roads and rights-of-way for both parties, since the ownerships are now more compact—and road systems can be patterned to meet the owners' individual needs, rather than crossing and recrossing lands owned by others. Salvage of a large amount of insect-killed timber has been simplified.

This was a large exchange. Most are smaller. Many involve other types of firms, as well as individuals. About one-third of all exchanges approved each year involve areas of less than 320 acres and values under \$25,000 on each side of the transaction. They occur in all parts of the country—Northeast, South, Midwest, Rocky Mountains, and Pacific Coast.

One recent exchange in Oklahoma was proposed by a rancher who wished to block up his rangeland holdings so he could manage them more efficiently. He offered 80 acres and selected for himself a tract of 160 acres of Government land. The tracts were of comparable value. The land acquired by the United States makes it easier to manage the Panhandle National Grasslands.

Another mutually beneficial small exchange was in North Carolina. A landowner offered 70 acres of his land for 23 acres of Government land, and solved some problems for himself. He needed room near his home for more buildings and improvements. He also owned some land that was hard for him to manage because it was rather isolated. The land he offered was needed by the Nantahala National Forest to increase timber production, and for watershed protection.

A Minnesota resident obtained through exchange a small adjoining tract. In return, he gave to the Forest Service 40 acres of low-lying lands for which he had no use. These 40 acres, along with adjacent lands in the Chippewa National Forest, will become an artificial lake to provide a much-needed home and food supply for waterfowl.

What laws allow land exchanges within the National Forest System?

- 1. For National Forest lands which were reserved from the public domain (federally owned land that has never been in private ownership, located primarily in the western United States):

The General Exchange Act of March 20, 1922 (42 Stat. 465), as amended by the act of Feb. 28, 1925 (43 Stat. 1090; 16 U.S.C. 485, 486), and as further amended by the act of June 11, 1960 (74 Stat. 205).

- 2. For acquired lands that have National Forest status (lands purchased from States, counties, companies, or individuals, primarily in the eastern United States) :

The Weeks Law Exchange Act of March 3, 1925 (43 Stat. 1215; 16 U.S.C. 516).

- 3. For National Grasslands or Land Utilization Projects (purchased lands, primarily in the Great Plains and in limited areas of the eastern United States) :

Title III, Bankhead-Jones Farm Tenant Act of July 22, 1937 (50 Stat. 525), as amended by the acts of July 28, 1942 (56 Stat. 725); Sept. 27, 1962 (76 Stat. 607); Oct. 23, 1962 (76 Stat. 1153; 7 U.S.C. 1010-1012).

- 4. For *other* lands administered by the Forest Service (primarily administrative sites for headquarters, etc., outside the boundaries of the National Forests) :

Forest Service Omnibus Act of Oct. 23, 1962 (76 Stat. 1157; 16 U.S.C. 555a).

Who determines what the land is worth?

Both parties make their separate valuations of the properties proposed for exchange. Both decide what they want to obtain and how much land they are willing to give in exchange. The serious phase of negotiation starts after these decisions are reached.

The Government's appraisals are based on prices received for comparable properties in recent private transactions in the market area. Formal appraisals to determine the estimated fair market value are made by Forest Service appraisers, or are obtained from impartial sources, for each property involved in the proposed exchange. The appraisals prepared or obtained by the Government are solely for the use of the Government in making its decision on the exchange, to assure value-for-value exchange of land.

Are there any restrictions on the lands the Forest Service gives in exchange?

Normally, there are no restrictions placed on the lands the Forest Service gives in exchange. However, the United States can reserve timber, minerals, or right-of-way easements, the values of which are duly considered in determining the value of the exchanged lands.

Any proposed reservations are fully discussed with the private owner and he makes his decision with full knowledge of all conditions.

Can the private owner make reservations on the lands he exchanges?

The private owner has the same right to make reservations on the land he is exchanging as does the Government. Reservations made by the landowner are subject to appropriate rules and regulations issued by the Secretary of Agriculture. These rules and regulations are intended to insure that reserved rights (such as mining) will be exercised in such a manner as to avoid or minimize damage to the land and other resources. Reserved rights are also taken into account in valuation.

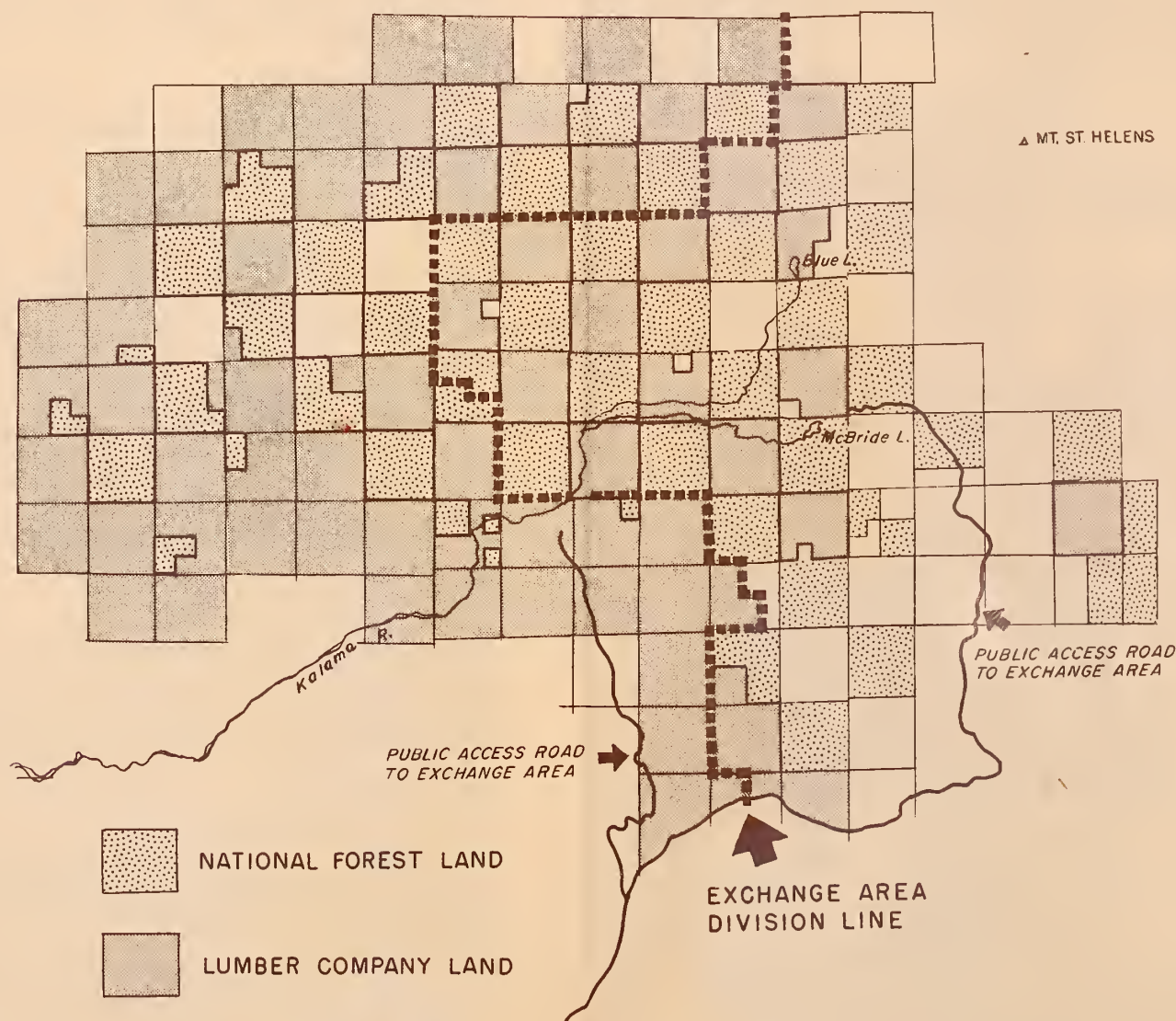
What is the procedure in land exchange?

Either the Forest Service or the landowner can initiate an exchange. If the private landowner

initiates the exchange, he tells the local District Ranger or Forest Supervisor which National Forest System lands he wishes to acquire and which of his own lands he proposes to offer. In both cases, when tentative agreement is reached on the areas to be considered in the exchange, the landowner makes an informal written offer to exchange.

Both the Forest Service and the landowner examine and separately appraise all the lands involved. Sometimes private owners employ appraisers; in other cases they make their own estimates of value.

A preliminary title review of the private property is necessary. Legal descriptions must be prepared and in some cases property boundaries must be surveyed.



OWNERSHIP BEFORE EXCHANGE

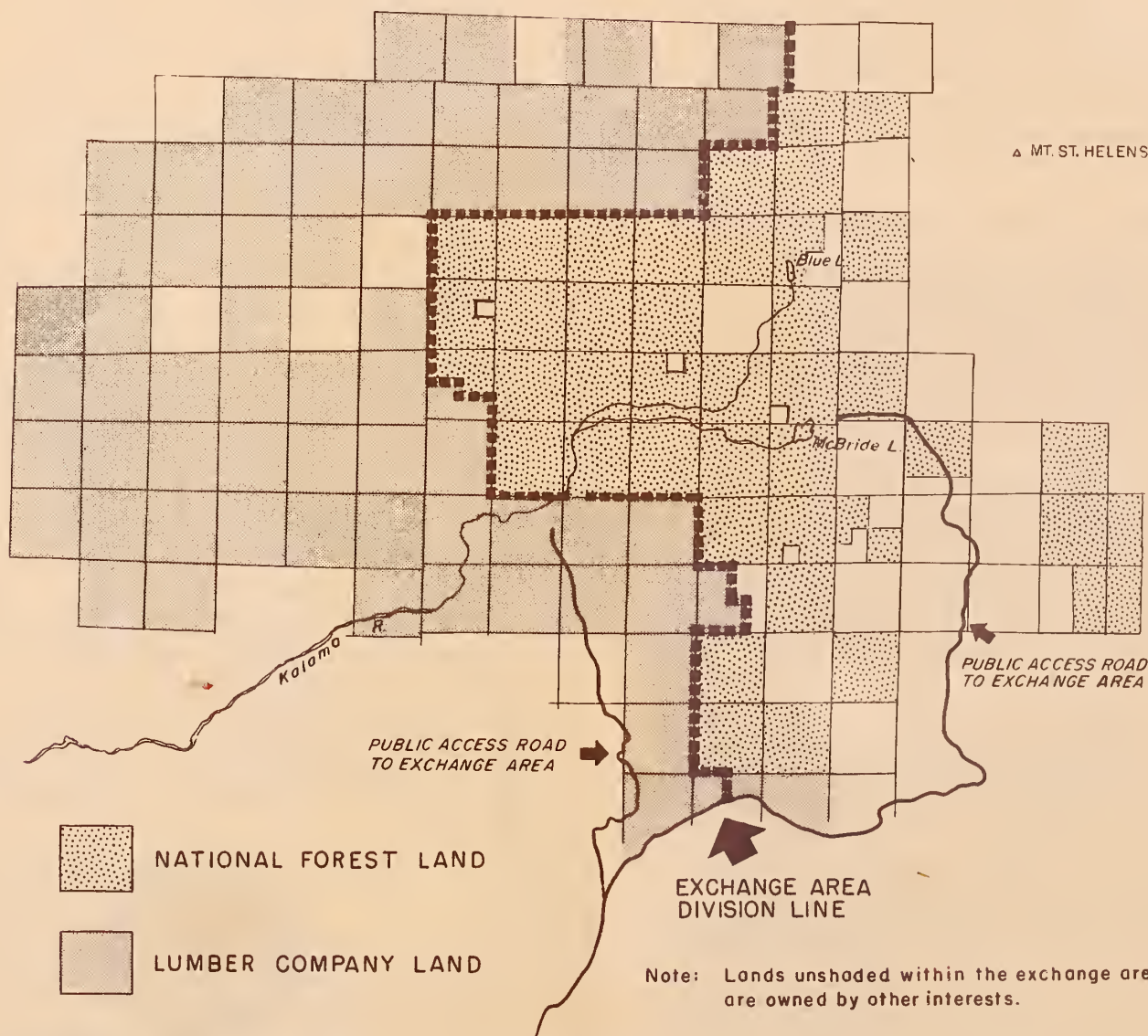
A complete understanding is reached as to any encumbrances or outstanding rights in the title to the lands, and as to any reservations proposed by either the landowner or the United States.

Once negotiations are concluded and the Forest Service appraisals are completed, the Forest Supervisor is able to determine whether the proposed exchange meets the legal requirements of the exchange authority.

It must be in the public interest, and the value of the land the Government would give in exchange must not exceed that of the land the Government would acquire. If he concludes that the exchange *does* meet these requirements, the landowner will be requested to sign a formal exchange offer.

The Forest Supervisor then recommends the exchange to the Regional Forester, who has authority to approve small land exchanges under all the laws listed above except the Weeks Law. Most exchanges, however, require approval by the Chief of the Forest Service; Weeks Law exchanges require approval by the National Forest Reservation Commission.

Once the exchange is approved, it must be advertised for four consecutive weeks by public notice in newspapers of general circulation in the counties involved. This allows persons who may have bona fide claims to the lands, or who object to the exchange, to file their claims or objections with the Regional Forester. This filing must be done within 30 days of the first publication date.



OWNERSHIP AFTER EXCHANGE

If there are no claims or objections, the Department of Agriculture's local attorney will ask for the title papers to the private land to be exchanged. A title insurance policy is preferred. He will review them, and if they meet the legal requirements of the United States, he will prepare a deed and have it executed by the landowner offering the land. The deed is recorded.

The deed and title papers are then forwarded to Washington for review by the Office of the General Counsel of the U.S. Department of Agriculture and, usually, by the U.S. Attorney General. When approved, valid title is vested in the United States Government, and title to the Federal land involved then is passed on to the landowner who instituted the exchange.

For more detailed information on forest land exchanges with the Forest Service, write to your local District Ranger or Forest Supervisor. If you don't know his address, write to the Regional Forester listed on the back who covers your locality. (States that include no National Forest System land are not listed.)

How long does it take to complete an exchange?

An uncomplicated land exchange transaction can be completed in 3 to 6 months. However, the average exchange takes longer. Negotiations, proposals, and counterproposals require additional field examination and valuation work when the areas or conditions of the proposal are materially changed.

Also, the owner frequently finds that his title is imperfect and requires certain corrections before it can be accepted by the U.S. Government. This often takes time. Circumstances such as inclement weather that prevents fieldwork can delay completion of appraisals and hence postpone final negotiation.

Some exchanges also require action by other Federal agencies, such as the Bureau of Land Management, the U.S. Geological Survey, and the Federal Power Commission. In those cases, additional time is usually required.

Because of the many factors involved and the special circumstances of each case, it is not possible to reliably predict how much time a particular exchange transaction will require. But assuming good, prompt continuity of action by both parties, an exchange can normally be completed within 8 months to a year.

Regional Foresters, U.S. Forest Service:

Federal Building, Missoula, Mont. 59801 (for Montana, North Dakota, Idaho north of Salmon River, and northeastern Washington).

Federal Center, Bldg. 85, Denver, Colo. 80225 (for Colorado, Kansas, Nebraska, and most of South Dakota and Wyoming).

New Federal Building, 517 Gold Ave. SW., Albuquerque, N. Mex. 87101 (for Arizona and New Mexico).

Federal Office Building, 324 25th St., Ogden, Utah 84401 (for Utah, Nevada, western Wyoming, and Idaho south of Salmon River).

630 Sansome St., San Francisco, Calif. 94111 (for California).

319 SW. Pine St., P.O. Box 3623, Portland, Oreg. 97208 (for Oregon and most of Washington).

633 West Wisconsin Ave., Milwaukee, Wis. 53203 (for Illinois, Indiana, Maine, Michigan, Minnesota, Missouri, New Hampshire, Ohio, Pennsylvania, Vermont, West Virginia, and Wisconsin).

50 Seventh St. NE., Atlanta, Ga. 30323 (for Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, and Virginia).

Federal Office Building, Box 1628, Juneau, Alaska 99801 (for Alaska).

NATIONAL FOREST SYSTEM LAND EXCHANGES ARE GOOD BUSINESS FOR THE NATION

- Usually both Federal and private tracts of land are made more accessible.
- Private landowners who participate can manage their lands more effectively. The affected National Forests and National Grasslands can also be managed more efficiently.
- The public often can be provided more recreation opportunities.
- The Federal Government and taxpayers save money.



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